

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN**

**SCOTT WEAVER**, individually and on  
behalf of all others similarly situated,

**PLAINTIFF,**

**v.**

**CHAMPION PETFOODS USA, INC. and  
CHAMPION PETFOODS LP,**

**DEFENDANTS**

Case No. 2:18-cv-01996-JPS

**DECLARATION OF REBECCA PETERSON IN SUPPORT OF  
REPLY IN SUPPORT OF PLAINTIFF’S MOTION FOR CLASS CERTIFICATION**

I, Rebecca A. Peterson, declare the following:

1. I am an attorney at the law firm of Lockridge Grindal Nauen P.L.L.P. (“LGN”). I represent Plaintiff in this matter and submit this Declaration in support of the Reply in Support of Plaintiff’s Motion for Class Certification.

2. This Declaration is based on my personal knowledge and review of my files.

3. Attached as **Exhibit 1** is a true and correct compilation of images taken from the Orijen Original, Puppy, Regional Red, Six Fish, Puppy Large, and Senior diet packaging that are at issue in this litigation. The sources for these images are identified therein. For the Court’s convenience, a few select larger images are set forth below:



# TRUSTED EVERYWHERE.

TRUSTED BY PET LOVERS EVERYWHERE. ORIJEN IS THE FULLEST EXPRESSION OF OUR BIOLOGICALLY APPROPRIATE™ AND FRESH REGIONAL INGREDIENTS COMMITMENT.

 <p><b>BIOLOGICALLY APPROPRIATE™</b></p> <p>NOURISH AS NATURE INTENDED – ORIJEN mirrors the richness, freshness and variety of WholePrey™ meats that dogs are evolved to eat.</p> <p><b>FRESH REGIONAL INGREDIENTS</b></p> <p>GROWN CLOSE TO HOME – We focus on local ingredients that are ethically raised by people we know and trust, and delivered to our kitchens fresh or raw each day.</p> <p><b>NEVER OUTSOURCED</b></p> <p>PREPARED EXCLUSIVELY IN OUR DOGSTAR® KITCHENS – We don't make foods for other companies and we don't allow our foods to be made by anyone else.</p>	 <p><b>BIOLOGICALLY APPROPRIATE™</b></p> <p>NOURISH AS NATURE INTENDED – ORIJEN mirrors the richness, freshness and variety of WholePrey™ meats that dogs are evolved to eat.</p> <p><b>FRESH REGIONAL INGREDIENTS</b></p> <p>GROWN CLOSE TO HOME – We focus on local ingredients that are ethically raised by people we know and trust, and delivered to our kitchens fresh or raw each day.</p> <p><b>NEVER OUTSOURCED</b></p> <p>PREPARED EXCLUSIVELY IN OUR DOGSTAR® KITCHENS – We don't make foods for other companies and we don't allow our foods to be made by anyone else.</p>
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The blue images are from the Orijen Six Fish diet manufactured at the DogStar kitchen from 2016 to 2017. CPFB00084. The brown images are from the Orijen Regional Red diet manufactured at the DogStar kitchen from 2016 to 2017. CPFB00077. The same language and images appear, in different colors, on the Original, Puppy, Puppy Large, and Senior diets manufactured at DogStar during the Class Period. The following text and images appear, sometimes in different colors, on

the Puppy, Regional Red, Six Fish, Senior, and Puppy Large diets manufactured at NorthStar during the Class Period:



4. Attached as **Exhibit 2** is a true and correct compilation of images taken from the Acana Dog (Puppy & Junior, Free-Run Duck, Feast, Light & Fit, and Freshwater Fish), Regionals (Meadowland, Ranchlands, Pacifica, Wild Atlantic, Grasslands, and Appalachian Ranch), Singles (Duck & Pear, Pork & Squash, Lamb & Apple, Chicken & Burbank Potato, and Yorkshire Pork), and Heritage diet packaging that are at issue in this litigation. The sources for these images are identified therein. The following text and images appear, sometimes in different colors, on all of these diets' packaging during the Class Period:





And the following appears, in different colors, on the vast majority of the diets manufactured at the DogStar kitchens:





5. Attached as **Exhibit 3** is a true and correct compilation of the following documents produced by CPF showing its purchasing history with JBS

- CPF0046822 – JBS produces 47,000 pounds of Beef Tallow (Lot #14) which is then sold to CPF on November 29, 2017
- CPF0047840 – JBS produces 47,000 pounds of Beef Tallow (Lot #15) which is then sold to CPF on December 2, 2017
- CPF0048919 – JBS MOPAC produces 47,000lb of Beef Tallow (Lot #16) which is then sold to CPF on January 11, 2018
- CPF0049307 – JBS produces 46,480 pounds of Beef Tallow (Lot #17) which is then sold to CPF on January 18, 2018
- CPF0050489 – JBS produces 45,660 pounds of Beef Tallow (Lot #18) which is then sold to CPF on February 8, 2018
- CPF0052896 – JBS produces 48,060 pounds of Beef Tallow (Lot #20) which is then sold to CPF on March 26, 2018
- CPF0053048 – JBS produces 45,780 pounds of Beef Tallow (Lot #21) which is then sold to CPF on March 28, 2018
- CPF0053893 – JBS produces 47,460 pounds of Beef Tallow (Lot #22) which is then sold to CPF on April 16, 2018.

6. Attached as **Exhibit 4** is a true and correct copy of a document entitled “Our Foundation: Our Guiding Principles” date August 9, 2018 (Bates numbered **CPF1999068**).

7. Attached as **Exhibit 5** is a true and correct copy of a document entitled “Customer Care Contact and FAQ’s” (Bates numbered **CPF2009158**).

8. Attached as **Exhibit 6** is a true and correct copy of a “Product Strategy” document (Bates numbered **CPF0220157**).

9. Attached as **Exhibit 7** is a true and correct copy of a document titled “Sales & Marketing Annual Planning Session 2015” (Bates numbered **CPF1305298**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

10. Attached as **Exhibit 8** is a true and correct copy of a document titled “One Page Plan 2015-2017” (Bates numbered **CPF0092151**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

11. Attached as **Exhibit 9** is a true and correct copy of a Standard Operating Procedure for Bag Development effective November 10, 2016 (Bates numbered **CPF0142244**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

12. Attached as **Exhibit 10** is a true and correct copy of a document titled “Productive SWOT [Strengths, Weaknesses, Opportunities, and Threats]” (Bates numbered **CPF2008114**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

13. Attached as **Exhibit 11** is a true and correct copy of a document titled “DOGSTAR FAQ’S” (Bates numbered **CPF1748855**).

14. Attached as **Exhibit 12** is a true and correct copy of a document titled “DOGSTAR FAQ’S” (Bates numbered **CPF1807782**).

15. Attached as **Exhibit 13** is a true and correct copy of restricted internal document dated April 16, 2019 (Bates numbered **CPF1973924**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

16. Attached as **Exhibit 14** is a true and correct copy of a document titled “GROW Working Relationships” dated September 13, 2017 (Bates numbered **CPF0255511**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

17. Attached as **Exhibit 15** is a true and correct copy of a letter from the U.S. Food & Drug Administration to Amanda Flowers dated February 26, 2018 (Bates numbered **CPF1349276**).

18. Attached as **Exhibit 16** is a true and correct copy of a Goods Receiving Inspection Report dated April 4, 2018 (Bates numbered **CPF1616586**).

19. Attached as **Exhibit 17** is a true and correct copy of various Purchase Orders (Bates stamped **CPF1620214**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

20. Attached as **Exhibit 18** is a true and correct copy of Purchase Orders (Bates stamped **CPF1624001**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

21. Attached as **Exhibit 19** is a true and correct copy of a Certificate of Analysis dated May 1, 2018 (Bates numbered **CPF0054930**).

22. Attached as **Exhibit 20** is a true and correct copy of a document titled "Storage life of fresh meat blend" dated February 2015 (Bates numbered **CPF1781155**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

23. Attached as **Exhibit 21** is a true and correct copy of a Laboratory Shift Report dated September 8, 2016 (Bates numbered **CPF2055446**).

24. Attached as **Exhibit 22** is a true and correct copy of a Laboratory Shift Report dated November 27, 2015 (Bates numbered **CPF1717891**).

25. Attached as **Exhibit 23** is a true and correct copy of an e-mail exchange between David Chapman and Travis Appling dated May 12, 2016 (Bates numbered **CPF1719560**).

26. Attached as **Exhibit 24** is a true and correct copy of **CPF1183880**.

27. Attached as **Exhibit 25** is a true and correct copy of a letter from Pack Leader Pet Products (Pty) Ltd. to Champion Petfoods LP and its consultant, Advertising Standards Authority of South Africa (Bates numbered **CPF2047936**).

28. Attached as **Exhibit 26** is a true and correct copy of an e-mail exchange between Brendan Mitchell of Northern Pelagic Group, LLC (“NORPEL”) and Amanda Flowers dated between September 2017 and November 2017 (Bates numbered **CPF0256512**).

29. Attached as **Exhibit 27** is a true and correct copy of a Quality Assurance Product Release Form dated October 7, 2017 (Bates numbered **CPF0359399**) (showing Acana Sport Dog manufactured with regrinds made on February 6, 2013). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

30. Attached as **Exhibit 28** is a true and correct copy of a Quality Assurance Product Release Form dated October 7, 2011 (Bates numbered **CPF0353461**) (showing Orijen Adult manufactured with regrinds made on December 23, 2012). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

31. Attached as **Exhibit 29** is a true and correct copy of a Quality Assurance Product Release Form dated February 17, 2015 (Bates numbered **CPF0537694**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

32. Attached as **Exhibit 30** is a true and correct copy of a Quality Assurance Product Release Form dated February 17, 2015 (Bates numbered **CPF0551343**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

33. Attached as **Exhibit 31** is a true and correct copy of a February 2018 e-mail exchange between Chinedu Ogbonna and Jaimi Seutter (Bates numbered **CPF1768703**).

34. Attached as **Exhibit 32** is a true and correct copy of an October 2013 e-mail exchange between Jeff Johnston and Frank Burdzy (Bates numbered **CPF1295272**).

35. Attached as **Exhibit 33** is a true and correct copy of an External Memorandum from Exponent to Champion, dated May 11, 2018, Subject: Privileged and Confidential –



Potential exposure to pentobarbital in dog food – REVIEW DRAFT (Bates numbered **CPF2120224**).

36. Attached as **Exhibit 34** is a true and correct copy of **JBS0007485** (testing reports for samples dated November 22, 2017, January 18, 2018, and February 12, 2018). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

37. Attached as **Exhibit 35** is a true and correct copy of the Product Master Document (“MD”) for DogStar Acana Regionals Meadowlands (Bates numbered **CPF1822288**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

38. Attached as **Exhibit 36** is a true and correct copy of a Team USA Report dated August 2017 (Bates numbered **CPF1813063**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

39. Attached as **Exhibit 37** is a true and correct copy of the Kentucky Greyhound Project Ingredient Master Tracking Spreadsheet dated March 7, 2015 (Bates numbered **CPF0227776**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

40. Attached as **Exhibit 38** is a true and correct copy of a Product Authenticity Risk Assessment (Bates numbered **CPF1941300**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

41. Attached as **Exhibit 39** is a true and correct copy of the *Total Diet Study: Elements Results Summary Statistics, Market Baskets 2006 through 2013* published by the FDA on April 15, 2014 and revised in 2017, available at <https://www.fda.gov/media/77948/download>. A careful reading of the study suggests that a majority of the samples tested for individual heavy metals resulted in non-detect findings (i.e. it appears that 671 of the 824 samples tested non-detect for mercury (81.4%); 7,230 of the 8,193 samples tested non-detect for arsenic (88.2%);

3,030 of the 8,193 samples tested non-detect for cadmium (36.9%); and 7,754 of the 8,804 samples tested non-detect for lead (88%).

42. Attached as **Exhibit 40** is a true and correct copy of excerpts from the Deposition of Peter Muhlenfeld taken on December 4, 2018.

43. Attached as **Exhibit 41** is a true and correct copy of excerpts from the Deposition of Bonnie Gerow taken on December 5, 2018.

44. Attached as **Exhibit 42** is a true and correct copy of excerpts from the Deposition of Julie Washington taken on December 5, 2018.

45. Attached as **Exhibit 43** is a true and correct copy of excerpts from the Rule 30(b)(6) Deposition of Christopher Milam taken on November 28, 2018.

46. Attached as **Exhibit 44** is a true and correct copy of excerpts from the Rule 30(b)(6) Deposition of Jim Wagner taken on April 3, 2019.

47. Attached as **Exhibit 45** is a true and correct copy of excerpts from the Deposition of Jonathan Ellison taken on October 22, 2018 in the matter of *Loeb v. Champion Petfoods USA, Inc.*, No. 18-cv-494-JBS (E.D. Wis.).

48. Attached as **Exhibit 46** is a true and correct copy of excerpts from the Deposition of Scott Weaver taking on June 12, 2019.

49. Attached as **Exhibit 47** is a true and correct copy of a December 2014 e-mail exchange between various Champion employees (Bates numbered **CPF1177144**).

50. Attached as **Exhibit 48** is a true and correct copy of an Excel spreadsheet related to CPF's suppliers (Bates numbered **CPF2074587**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

51. Attached as **Exhibit 49** is a true and correct copy of an Excel spreadsheet related to CPF's suppliers (**CPF2117241**). THIS DOCUMENT IS BEING FILED AS RESTRICTED.

52. Attached as **Exhibit 50** is a true and correct copy of an e-mail exchange between Peter Muhlenfeld and various Champion employees dated October 30, 2017 (Bates numbered **CPF1816222**).

53. Attached as **Exhibit 51** is a true and correct copy of the FDA Warning letter to JBS (Apr. 23, 2019)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 30, 2019 in Minneapolis, Minnesota.

/s/ Rebecca A. Peterson

Rebecca A. Peterson